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10/723,680

11/25/2003

Brian Gerrard Devlin

CL/V-32782A

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PATENT DEPARTMENT  
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EXAMINER

VARGOT, MATHIEU D

ART UNIT

PAPER NUMBER

1732

MAIL DATE

DELIVERY MODE

07/03/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/723,680

Applicant(s)

DEVLIN ET AL.

Examiner

Mathieu D. Vargot

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1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/25/03, 6/18/04</u> . | 6) <input type="checkbox"/> Other: _____  |

1. Applicant's election of Group I, claims 1-11 in the reply filed on April 12, 2007 is acknowledged.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stockinger et al (col. 7, line 59 through col. 8, line 61) as characterized in the instant specification at page 14, lines 6-10 in view of the admitted prior art set forth in instant specification at page 2, line 22 through page 3, line 5 and British Patent 1,177,100 (see page 2, lines 5-7 and lines 95-96; also, at page 6, Example 7, Test 7 teaches Mn-citrate).

The primary reference discloses making contact lenses using a prepolymer containing the instant polyoxyalkylene radical (see passage bridging columns 7 and 8 and equation 7 therein) copolymerized with urethane polymers to yield polyurethanes and polyureas as characterized by applicant at instant page 14, lines 6-10. The primary reference essentially lacks the aspect of the particular stabilizer used. However, the instant specification (see page 2, line 22 through page 3, line 5) teaches that polymeric compositions comprising polyoxyalkylene moieties are conventionally stabilized and British -100 teaches that a manganese salt of a tricarboxylic acid—ie, Mn-citrate—acts as a stabilizer to eliminate oxidative degradation of an aqueous solution containing PEG

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in Example 7, Test 7 taught at page 6. Also, British –100 (page 2, lines 5-7) teaches that salts of organic acids would stabilize “homo- and copolymers of alkylene oxides and reaction products of alkylene oxides with...active hydrogen,,, by **adding to them** or their solutions” the manganese salts. It would have been obvious, based on the admitted prior art of instant page 2, line 22 through page 3, line 5, to incorporate the salt of a multi-acid as taught in British –100 to ensure that the polymer is not excessively degraded upon exposure to heat or oxygen. It is submitted that the salt would not be incorporated into the polymeric backbone, but distributed as set forth in instant claim 1 and that it would have the instant reduction of detectable formic acid and other degradation products. See the Table at page 6 of British –100, wherein the inclusion of the citrate salt lowered the presence of formaldehyde to less than 1/78 of what it would have been without the inclusion of the salt.

3.Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
June 22, 2007

  
Mathieu D. Vargot  
Primary Examiner  
Art Unit 1732

6/22/07